

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 17th day of May, two thousand sixteen.

PRESENT:

ROBERT D. SACK,
REENA RAGGI,
SUSAN L. CARNEY,
Circuit Judges.

HANG PAN,
Petitioner,

v.

LORETTA E. LYNCH, UNITED STATES
ATTORNEY GENERAL,
Respondent.

14-4397
NAC

FOR PETITIONER: Gerald Karikari, New York, New York.

FOR RESPONDENT: Benjamin C. Mizer, Principal Deputy Assistant Attorney General; Cindy S. Ferrier, Assistant Director; Tracie N. Jones, Trial Attorney, Office of Immigration Litigation, United States Department of Justice, Washington, D.C.

1 UPON DUE CONSIDERATION of this petition for review of a
2 Board of Immigration Appeals ("BIA") decision, it is hereby
3 ORDERED, ADJUDGED, AND DECREED that the petition for review is
4 DENIED.

5 Petitioner Hang Pan, a native and citizen of the People's
6 Republic of China, seeks review of an October 24, 2014, decision
7 of the BIA affirming a January 29, 2013, decision of an
8 Immigration Judge ("IJ") denying Pan's application for asylum,
9 withholding of removal, and relief under the Convention Against
10 Torture ("CAT"). *In re Hang Pan*, No. A205 614 892 (B.I.A. Oct.
11 24, 2014), *aff'g* No. A205 614 892 (Immig. Ct. N.Y. City Jan.
12 29, 2013). We assume the parties' familiarity with the
13 underlying facts and procedural history in this case.

14 Under the circumstances of this case, we have reviewed the
15 IJ's decision, including the portions not explicitly discussed
16 by the BIA. *Yun-Zui Guan v. Gonzales*, 432 F.3d 391, 394 (2d
17 Cir. 2005). The applicable standards of review are well
18 established. See 8 U.S.C. § 1252(b)(4)(B); *Yanqin Weng v.*
19 *Holder*, 562 F.3d 510, 513 (2d Cir. 2009).

20 For asylum applications, like Pan's, governed by the REAL
21 ID Act, the agency may, "[c]onsidering the totality of the

1 circumstances," base a credibility finding on inconsistencies
2 between the applicant's statements and other evidence, "without
3 regard to whether" they go "to the heart of the applicant's
4 claim." 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia Lin v. Mukasey*,
5 534 F.3d 162, 163-64 (2d Cir. 2008). "We defer . . . to an IJ's
6 credibility determination unless, from the totality of the
7 circumstances, it is plain that no reasonable fact-finder could
8 make such an adverse credibility ruling." *Xiu Xia Lin*, 534 F.3d
9 at 167.

10 Substantial evidence supports the adverse credibility
11 determination. The IJ reasonably relied on internal
12 inconsistencies within Pan's testimony and inconsistencies
13 among his testimony, prior statements, and documentary
14 evidence. For instance, Pan submitted documentary evidence
15 that he went to a clinic twice after he was allegedly beaten
16 by authorities, but he testified that he only went once. The
17 agency was not required to accept his explanation, that the
18 second visit was he only to pick up medicine, particularly given
19 that the entry for the second visit reflected a re-examination
20 but not any prescriptions. *Majidi v. Gonzales*, 430 F.3d 77,
21 80-81 (2d Cir. 2005).

1 Pan also submitted a document titled a "detention warrant."
2 When asked about it, he testified that he was summoned back to
3 the police station shortly after he was released to pick up the
4 document. His asylum application omitted any mention of this
5 summons or document. His explanation, that he thought it was
6 an unimportant part of regular police procedure, is not
7 sufficiently compelling to overturn the IJ's inconsistency
8 finding. *Id.*

9 Finally, Pan testified on direct examination that he was
10 introduced to Christianity at a time when he was having trouble
11 with work. On cross-examination, he testified that he was
12 struggling with his job at a jewelry store. Immediately
13 thereafter, when asked when he worked at the jewelry store, he
14 replied that he worked there for three days in 2008, three years
15 before he was introduced to Christianity. He was unable to
16 provide any explanation for this inconsistency.

17 Given the internal inconsistencies in his testimony and the
18 inconsistencies among his testimony, documentary evidence, and
19 written statements, all of which relate to his Christianity or
20 alleged persecution, substantial evidence supports the
21 agency's adverse credibility determination. *Xiu Xia Lin*, 534

1 F.3d at 167. That determination is dispositive of asylum,
2 withholding of removal, and CAT relief, because all three rely
3 on the same factual predicate. See *Paul v. Gonzales*, 444 F.3d
4 148, 156-57 (2d Cir. 2006).

5 For the foregoing reasons, the petition for review is
6 DENIED. As we have completed our review, any stay of removal
7 that the Court previously granted in this petition is VACATED,
8 and any pending motion for a stay of removal in this petition
9 is DISMISSED as moot. Any pending request for oral argument
10 in this petition is DENIED in accordance with Federal Rule of
11 Appellate Procedure 34(a)(2), and Second Circuit Local Rule
12 34.1(b).

13 FOR THE COURT:
14 Catherine O'Hagan Wolfe, Clerk